

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

KLAMATH-SISKIYOU WILDLANDS  
CENTER, et al.,

Case No. 1:19-cv-02069-CL  
**ORDER**

Plaintiffs,

vs.

UNITED STATES BUREAU OF LAND  
MANAGEMENT,

Defendant

and

MURPHY COMPANY,

Defendant-Intervenor.

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AIKEN, District Judge:

On September 29, 2021, the Court adopted United States Magistrate Judge Mark Clarke's Findings and Recommendation (doc. 49) and granted in part and denied in part the parties' cross-motions for summary judgment (docs. 31, 40, 41).

Doc. 59. In the F&R, Judge Clarke concluded that defendant the United States Bureau of Land Management’s (“BLM”) Revised Environmental Assessment, Decision Record, and Finding of No Significant Impact violate the National Environmental Policy Act (“NEPA”) and the Administrative Procedure Act (“APA”) by failing to adequately address the Griffin Half Moon Vegetation Management Project’s (“the Project”) impacts on the Great Gray Owl. Plaintiffs have asked the Court to (1) declare that BLM’s actions violate NEPA and the APA, (2) vacate and set aside BLM’s actions, (3) remand the matter to BLM until BLM demonstrates that it has adequately complied with the law; and (4) enjoin implementation of the Project.

Under the APA, when a court determines that an agency’s action, finding, or conclusion was arbitrary and capricious, the court shall “hold unlawful and set aside” the agency’s action. 5 U.S.C. § 706(2); *see also AquAlliance v. U.S. Bureau of Reclamation*, 312 F. Supp. 3d 878, 880 (E.D. Cal. 2018) (“Vacatur is the presumptive remedy when a court finds an agency’s decision is unlawful under the [APA].”).

Accordingly, IT IS ORDERED that

- 1) BLM’s Revised Environmental Assessment and Decision Record issued on August 15, 2018, is VACATED.
- 2) Plaintiff’s request for injunctive relief is GRANTED. The Court enjoins BLM and its contractors, assigns, etc. from implementing the Project and related timber sale until BLM has completed a supplement to the 2018 Revised Environmental Assessment and Decision record that addresses the Project’s

impacts to the Great Grey Owl and complies with the requirements of NEPA and the APA.

- 3) This matter is REMANDED to BLM for further proceedings consistent with this order and Judge Clarke's F&R.

Dated this 30th day of September 2021.

/s/Ann Aiken

Ann Aiken  
United States District Judge